

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

December 8, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 06OD-020

Oahu

Sale of Remnant to Hawaii Preparatory Academy, Auwaiolimu, Honolulu, Oahu, Tax  
Map Key: (1) 2-2-003:94.

APPLICANT:

Hawaii Preparatory Academy, a domestic non-profit corporation, whose business and  
mailing address is 65-1692 Kohala Mountain Road, Kamuela, Hawaii 96743-8476.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Auwaiolimu, Honolulu, Oahu, identified by Tax  
Map Key: (1) 2-2-003:94 (Remnant 1), as shown in Exhibits "A" and "B".

AREA:

3,846 square feet, more or less.

ZONING:

State Land Use District: Urban  
County of Honolulu CZO: Residential (R-3.5)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:  
YES ☐ NO ☒

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7422 to Hawaii Preparatory Academy, commencing from September 1, 2006, for access and parking purposes.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner and will become privately owned land at that point. Chapter 343, HRS, would not apply to any future development on the parcel as no State lands would be involved.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>   </u>
Registered business name confirmed:	YES <u>X</u>	NO <u>   </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>   </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of fair market value for the remnant;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost

BACKGROUND:

The subject property was previously encumbered by Revocable Permit S-3835 to the Tennent Art Foundation for public art gallery and garden purposes, which basically served as access and a parking area for their abutting properties, identified as Tax Map Keys: (1) 2-2-03:75 and 76. The only practical access currently available to these parcels is through the State's remnant parcel.

Recently, the Tennent Art Foundation was dissolved and its assets were conveyed to the Hawaii Preparatory Academy (HPA). The State then issued Revocable Permit S-7422 to

HPA so it could continue using the subject property for access and parking purposes. HPA is now requesting to purchase the subject property. Staff confirmed HPA's ownership of parcels 75 and 76 through the City and County of Honolulu's (City) tax records, and a warranty deed issued by the Tennent Art Foundation to HPA, dated March 28, 2005.

HPA's parcels are not landlocked, but their difference in elevation to Madeira Street, and the design and characteristics of HPA's existing driveway and art gallery building make it practical for HPA to purchase the State's remnant.

In addition, the portion of Madeira Street abutting the north side of both HPA parcels is not a through street. As illustrated on the attached map labeled Exhibit "A", and photos in Exhibit "C", the east end of Madeira Street becomes a paper road (a planned, but unbuilt roadway) where it meets Prospect Street. The City's Transportation Division informed staff it does not intend to connect Madeira and Prospect Streets, because the existing slope is too steep.

REMARKS:

Pursuant to §171-52, Hawaii Revised Statutes (HRS), the term "remnant" means,

"a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size and shape. A remnant may be... (2) Vacated, closed, abandoned, or discontinued road, street or alley or walk, railroad, ditch, or other right-of-way."

Staff believes the subject State parcel is a remnant because it is "a parcel of land economically and physically unsuitable for development or utilization as a separate unit, because of its location, size, and shape." Although not pursuant to HRS, staff notes that DAGS survey maps (CSF14455-14457, dated February 11, 1965) identify the subject parcel as a remnant (see Exhibit "B").

HRS §171-52(c), further provides that,

"Remnants or portions thereof may be disposed of by the board of land and natural resources without recourse to public auction in the manner set forth herein. In the event that one abutting landowner lacks access to a street, and such access can be secured by disposition of the remnant, such remnant shall be first offered for sale to such abutting owner, or subdivided so as to protect the access of all abutting landowners.

Staff inquired with the Association of Apartment Owners of Dowsett Point (see Exhibit "D"), which owns the other abutting property, situated at tax map key: (1) 2-2-03:50, regarding an opportunity to purchase the subject property, and received a reply of "no interest".

Staff solicited comments from the following government agencies and received the following replies:

State Historic Preservation Division:

Has no specific concerns, but requested the opportunity to review any plans or permits the Applicant may have to alter or construct on the remnant parcel.

Staff's response: HPA did not indicate they planned to develop the subject remnant, but only to obtain permanent legal access and parking.

City Transportation Division:

Does not have any plans to extend Madeira Street, or widen Prospect Street. Therefore, the City does not object to the remnant's sale. However, in the event such plans materialize, the City may require HPA to relinquish a small portion of its property, which may include the remnant, for road purposes relating to a corner-rounding requirement.

Staff's response: Staff does not believe the City's comments should have any effect on a proposed sale of the remnant to HPA. Should HPA be required to relinquish a small portion of land for a corner-rounding project, most, if not all the required land will be on the toe-end of one of HPA's properties, and is colored in green on Exhibit "A".

Department of Hawaiian Home Lands: No comment.

State Department of Transportation: No response.

City Department of Planning and Permitting: No response.

City Department of Facilities Maintenance: No objection.

Board of Water Supply: No objection.

HPA is in compliance with all the terms and conditions of its revocable permit regarding rent, insurance, and performance bond requirements, and has no history of default.

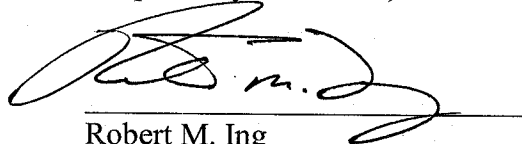
The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

That the Board:

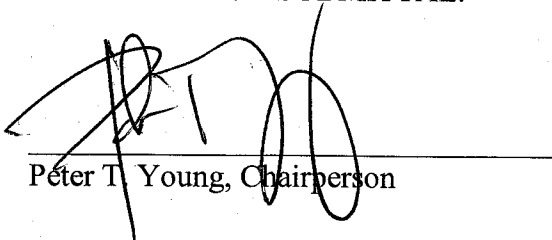
1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171-52, Hawaii Revised Statutes.
2. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
3. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Hawaii Preparatory Academy, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

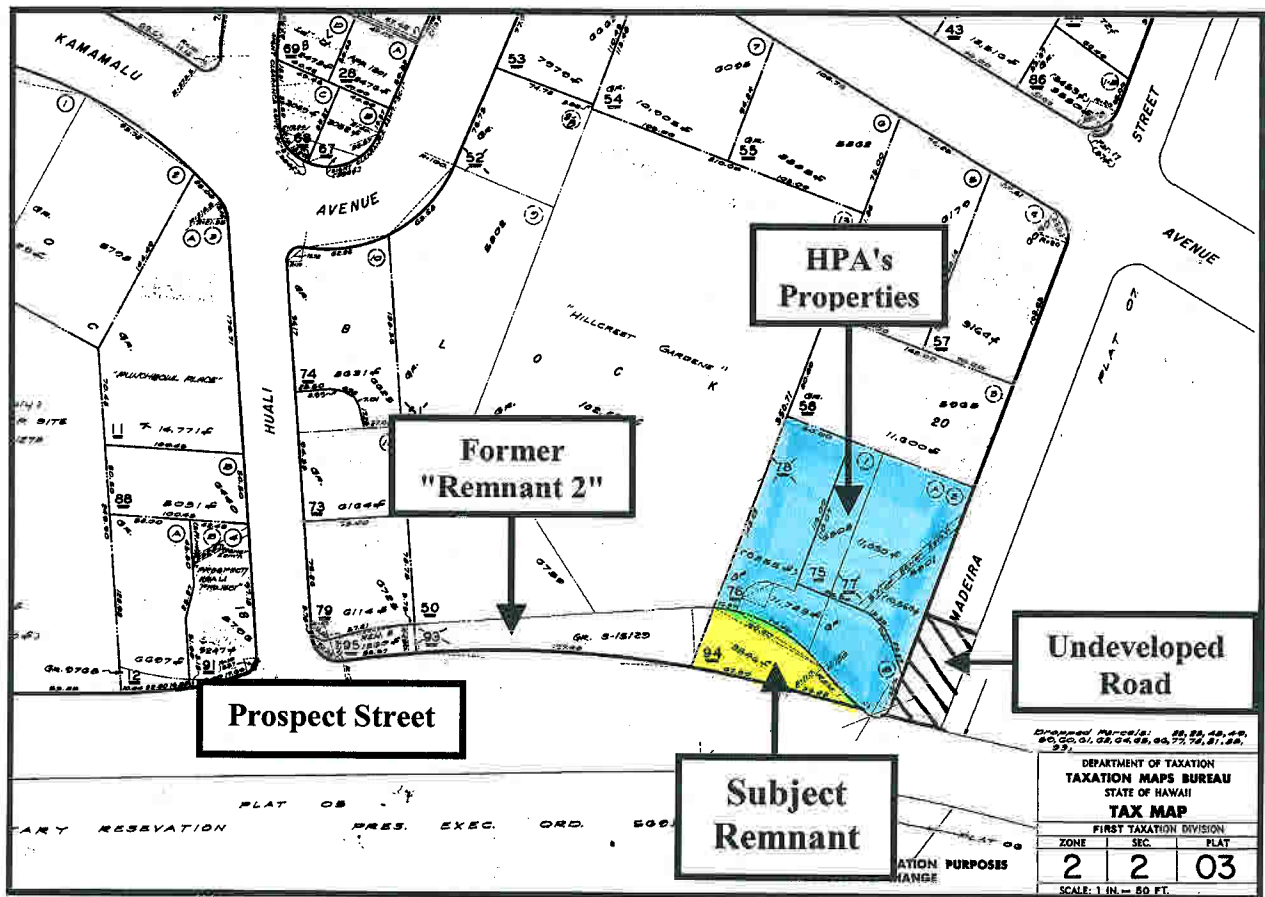
Respectfully Submitted,



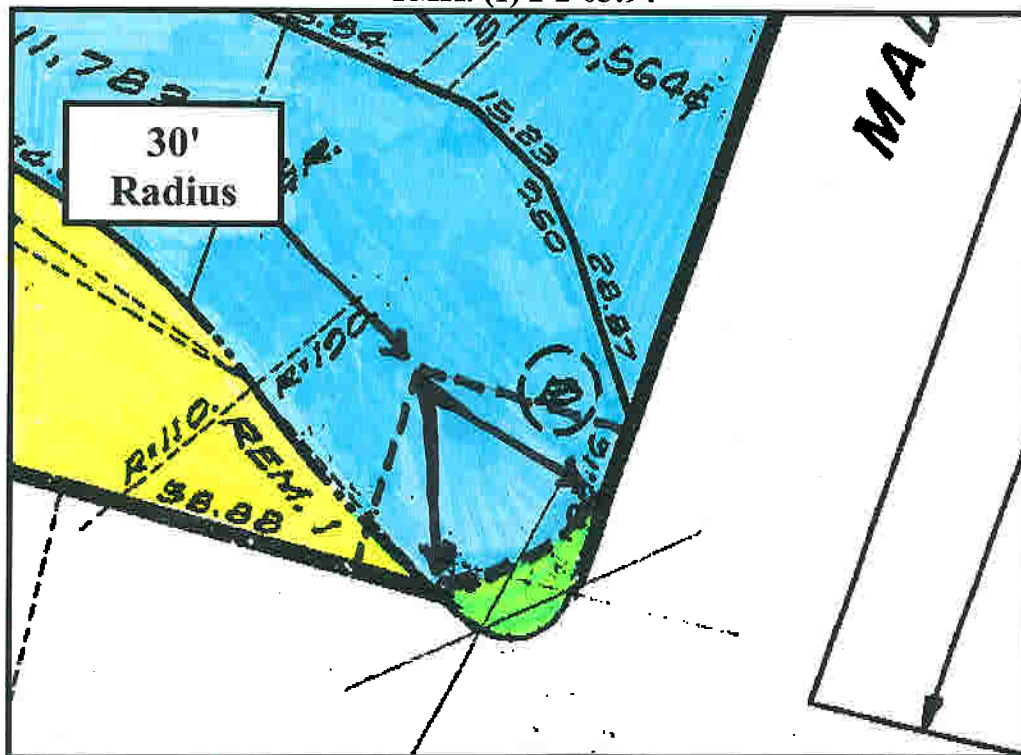
Robert M. Ing  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

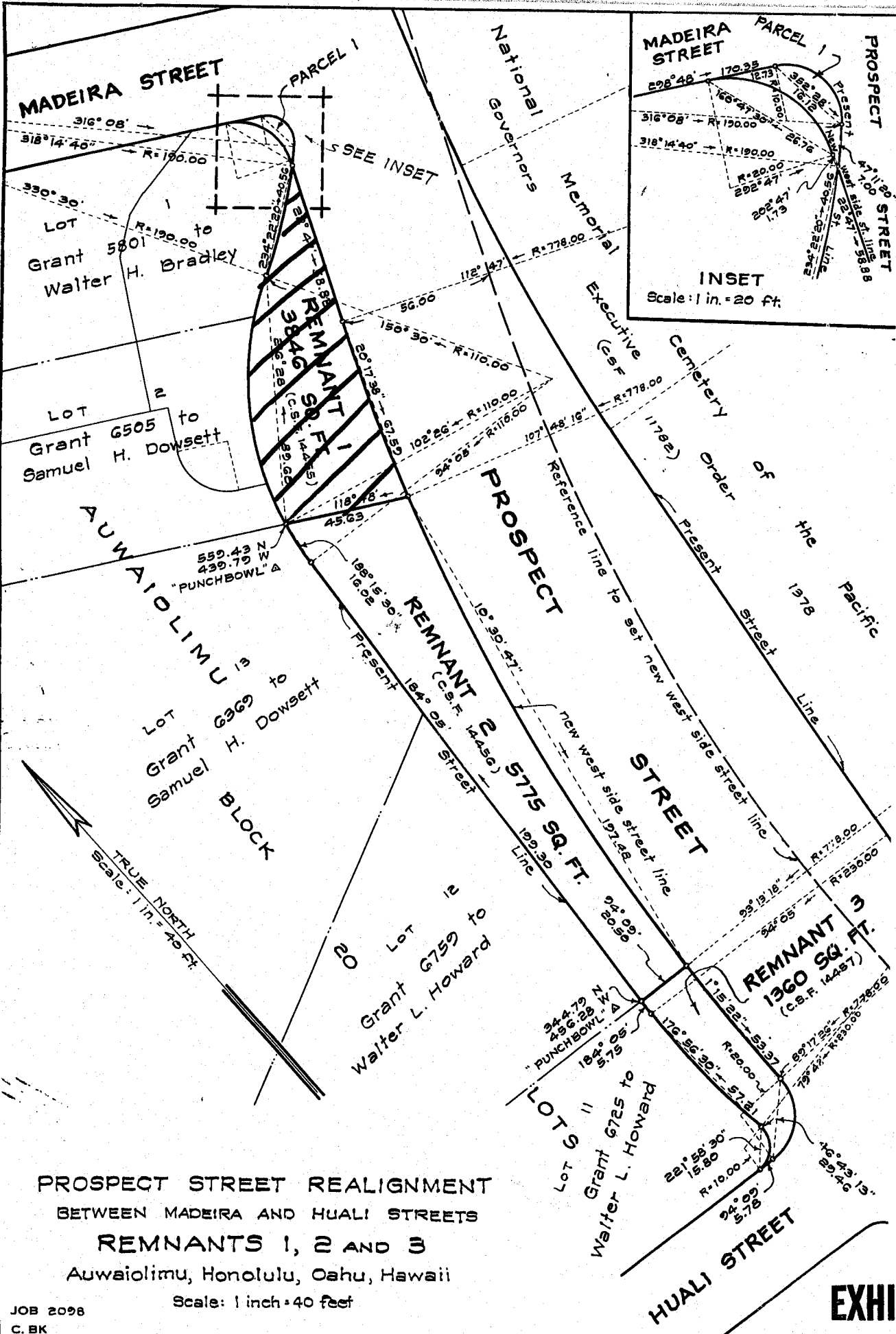


**Sale of State Remnant to Hawaii Preparatory Academy  
TMK: (1) 2-2-03:94**



**City's 30' Corner Rounding Requirement**

**EXHIBIT "A"**



**EXHIBIT "B"**



**Sale of State Remnant to Hawaii Preparatory Academy**

TMK: (1) 2-2-003:094

PSF#06OD-020



**Subject property. Facing Ewa on Prospect Street, Punchbowl.**



**Facing Northward from within the subject property. The Applicant's properties (parcels 75 & 76) are beyond the line of trees left and center. The driveway leading down to their properties are on the far left**



**Facing outward from the States remnant parcel, out towards Prospect Street on the West side of Punchbowl Crater**

**EXHIBIT "C"**



# Madeira Street Punchbowl, Honolulu, Oahu



Madeira Street, abutting the North side of TMK's: (1) 2-2-03:75 and 76 (HPA property), which is above the retaining wall. The art gallery building sits atop a slope behind the trees in the center, with an elevation of at least 15' above street level. The State Capital is somewhere behind the trees on the right.



Facing East on Madeira Street.  
Prospect Street on Punchbowl  
Crater is directly above the slope.



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

October 23, 2006

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
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DEPUTY DIRECTOR  
  
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BOATING AND OCEAN RECREATION  
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FORESTRY AND WILDLIFE  
HISTORY, PRESERVATION  
KAPOLAHWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

AOAO Dowsett Point  
c/o Mr. Jeff Dickinson, Property Manager  
Hawaiiana Management Company, Ltd.  
711 Kapiolani Blvd, Suite 700  
Honolulu, Hawaii 96813

PSF #06OD-020

Dear Mr. Dickinson:

Subject: Request from Hawaii Preparatory Academy to purchase State land, situated at  
203 Prospect Street, Honolulu, Oahu, TMK (1) 2-2-03:94.

The Hawaii Preparatory Academy (HPA) has recently requested to purchase a State parcel fronting HPA's property on Prospect Street. HPA's property was formerly known as the "Tennent Art Foundation" art gallery, and is directly abutting the north side of the AOAO Dowsett Point condominium property on 217 Prospect Street. The State's parcel is situated at 203 Prospect Street, and is further identified as Tax Map Key: (1) 2-2-03:94 on the attached map labeled Exhibit "A". During our review of HPA's request, it was noted that the State's parcel is also abutting AOAO Dowsett Point's property.

Hawaii Revised Statutes (HRS) §171-52 (c), provides that,

"Remnants or portions thereof may be disposed of by the board of land and natural resources without recourse to public auction in the manner set forth herein. Any remnant or portion thereof to be disposed of shall be first offered for sale to the abutting owner for a reasonable period of time at a reasonable price based on appraised value. In the event that one abutting landowner lacks access to a street, and such access can be secured by disposition of the remnant, such remnant shall be first offered for sale to such abutting owner, or subdivided so as to protect the access of all abutting landowners. If there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting a sealed bid containing the highest offer above the appraised value. If the remnant abuts more than one parcel, the board may subdivide the remnant so that a portion thereof may be sold to each abutting owner at the appraised value; provided that no remnant shall be sold to any abutting owner unless the remnant, when combined or consolidated with the abutting property, shall constitute a lot acceptable to the appropriate agency of the county in which the remnant lies; and provided further that appropriate language shall be included in any document of conveyance of

**EXHIBIT "D"**

October 23, 2006

such remnant to assure use of the remnant in accordance with the applicable ordinances, rules, and regulations of the county concerned."

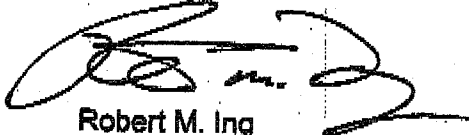
The subject property is believed to be a remnant. We are writing to AOAOW Dowsett Point because pursuant to §171-52 (c), HRS, it is an abutting owner to the remnant parcel, who may qualify for a disposition of the remnant parcel in accordance with the terms of §171-52 (c), HRS.

Enclosed for your convenience is a draft copy of the Land Board submittal, by which HPA is requesting to purchase the State's parcel. The draft submittal contains some background information that may assist you in responding to this inquiry.

Therefore, please review the information provided, and indicate in the space below any interest AOAOW Dowsett Point may have in the State's parcel. We would appreciate you returning a signed copy of this letter to our Land Division office as soon as possible by faxing it to 587-0455. If we do not receive any response from you on or before November 30, 2006, we will move forward with the understanding that you have no interest in the State's parcel. Should you require more time to reach a determination, we would appreciate a letter to that effect at your earliest opportunity, but in no event later than November 30, 2006.

If you have any questions regarding the above, please feel free to call me at 587-0383. Thank you.

Sincerely,



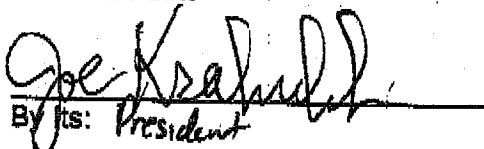
Robert M. Ing  
Land Agent

☐ Yes, we are interested in purchasing the State's remnant parcel, identified as Tax Map Key: (1) 2-2-03:94, or a portion thereof.

☒

No, we are not interested in purchasing the State's parcel, identified as Tax Map Key (1) 2-2-03:94, or any portion thereof.

Association of Apartment Owners of  
Dowsett Point

  
By its: President

Dated: 10/25/06

(Enclosure)

cc: Land Board Member  
Central Files  
District Files